

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HERAND ABCARIAN, M.D., F.A.C.S., Plaintiff,)	
)	
v.)	
)	
TIMOTHY MCDONALD, M.D., J.D., PATRICIA)	Case No. 08 CV 3843
KALE, WILLIAM H. CHAMBERLIN, JR., M.D.,)	
NIKKI CENTOMANI, STUART ALLEN,)	Honorable Samuel Der-Yeghiayan
BARBARA MCCOLGIN, CHRIS J. MOLLET, ESQ.,)	
THOMAS R. BEARROWS, ESQ., CHRISTINE)	
FLANINGAM, MICHAEL TRUCCO, ESQ., and)	
THE BOARD OF TRUSTEES OF THE)	
UNIVERSITY OF ILLINOIS, Defendants.)	

JOINT JURISDICTIONAL STATUS REPORT

I. Subject Matter Jurisdiction.

Plaintiff contends that jurisdiction of this court arises under 28 U.S.C. §§ 1331, 1337, 1343(a) and 1367(a), and 42 U.S.C. §§ 1981, 1983, 1985, 1986, and 1988. Plaintiff contends that jurisdiction for his state law claims arises as pendent or supplemental jurisdiction under 28 U.S.C. § 1367(a) and Fed. R. Civ. P. 18(a) and under the doctrine of pendent jurisdiction as set forth in *United Mine Workers v. Gibbs*, 383 U.S. 715 (1966).

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendants will move to dismiss Plaintiff's claims under 42 U.S.C. §§ 1981, 1983, 1985, and 1986, by motion to be filed on or before September 5, 2008, and request that the court thereafter decline to exercise supplemental jurisdiction over Plaintiff's non-federal claims.

II. Venue (Plaintiff's Position).

This federal question action is properly brought in the United States District Court for the Northern District of Illinois. "Where a case involves a federal question, venue is analyzed under 28 U.S.C. § 1391(b). Under this section, venue is appropriate in: (1) a district where the

defendants reside, if all defendants reside in the same state; (2) a district where the substantial events giving rise to the claim occurred; or (3) 'a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.'" *Flag Co. v. Maynard*, 376 F.Supp.2d 849, 857 (N.D.Ill.,2005). The affidavit of Dr. Abcarian attached as Exhibit 1 establishes that the substantial events which gave rise to the claim occurred in this district. The lawsuit which was brought against him was brought in the Circuit Court of Cook County, Illinois and apparently settled by risk management and claims personnel whose offices are located at the University of Illinois at Chicago Medical Center located in Chicago, Illinois. Additionally, the activities of defendant Michael Trucco occurred in connection with the lawsuit and the reporting thereof as did the activities of defendants Kale, Bearrows, and Flaningham. All defendants apparently reside in Illinois although Kale, Bearrows and Flaningham apparently do not reside in the Northern District. All the remaining individual defendants transact business in the Northern District. Defendant, The University of Illinois is a public corporation, the formal corporate name of which is "The Board of Trustees of the University of Illinois." This corporation operates, among other functions, the University of Illinois at Chicago Medical Center.

Dated: September 2, 2008

Respectfully submitted,

Plaintiff Herand Abcarian

Defendant Michael Trucco

By: s/ Joseph O'Callaghan
One of his attorneys

By: s/ John J. Duffy
One of his attorneys

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**Defendants Timothy McDonald, M.D., J.D.,
Patricia Kale, William H. Chamberlin, Jr.,
M.D., Nikki Centomani, Stuart Allen,
Barbara McColgin, Chris J. Mollet, Esq.,
Thomas R. Bearrows, Esq., Christine
Flaningam and the Board of Trustees of the
University of Illinois**

By: s/ William D. Heinz
One of their attorneys

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

HERAND ABCARIAN, M.D., F.A.C.S.)	
)	
Plaintiff,)	
)	
v.)	Filed: July 7, 2008
)	
TIMOTHY MCDONALD, M.D., J.D.,)	08 CV 3843
PATRICIA KALE, WILLIAM H.)	
CHAMBERLIN, JR., M.D.,)	JUDGE DER-YEGHIAYAN
NIKKI CENTOMANI, STUART ALLEN,)	
BARBARA MCCOLGIN, CHRIS J.)	MAGISTRATE JUDGE NOLAN
MOLLET, ESQ., THOMAS R.)	
BEARROWS, ESQ., CHRISTINE)	
FLANINGAM, MICHAEL TRUCCO, ESQ.)	
and THE BOARD OF TRUSTEES OF THE)	
UNIVERSITY OF ILLINOIS,)	
)	
Defendants.)	

AFFIDAVIT

1. My name is Herand Abcarian, M.D., F.A.C.S., and I am the plaintiff in this lawsuit.
2. I have lived in Cook County, Illinois, which I understand is within the jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division, for a period of many years prior to July 8, 2005 and up until the present time.
3. My first contact with the facts which give rise to this lawsuit was on or about July 8, 2005 when I received a letter from attorney Kathleen Zellner who claimed to be representing the Bezhad family in a claim or potential claim against me.
4. At some point subsequent to July 6, 2006 I learned that a lawsuit was filed against me in the Circuit Court of Cook County, Illinois, County Department, Law Division, which I understand is within the jurisdictional boundaries of the United States District Court for the Northern District of Illinois, Eastern Division, styled as DAVID BEHZAD, as Special

Administrator for the Estate of JOHN BEHZAD, deceased, Plaintiff, vs. HERAND ABCARIAN, M.D., Defendant, No. 06 L 006172.

5. Unbeknownst to me, that lawsuit was settled by claims and attorney personnel of the University of Illinois apparently acting from their offices at the University of Illinois Medical Center which is located in the City of Chicago, County of Cook, State of Illinois with attorney Kathleen Zellner whose office was located at the time she originally wrote to me at 1717 North Naper Boulevard, Naperville, Illinois 60563. I understand that both locations are within the jurisdictional boundaries of the United States District Court for the Northern District of Illinois, Eastern Division. Such settlement was apparently accomplished with the participation of Thomas R. Bearrows, Esq. and The Board of Trustees of the University of Illinois.

6. It is my belief that the following defendants were employed at the University of Illinois Medical Center campus located in the City of Chicago, County of Cook, State of Illinois, which I understand is within the jurisdictional boundaries of the United States District Court for the Northern District of Illinois, Eastern Division, and that their employment at such location was continuous during all times alleged in the complaint herein commencing with July 8, 2005 and continuing until the present time: Timothy McDonald, M.D., J.D., Associate Chief Medical Officer for Safety and Risk Management, University of Illinois Medical Center at Chicago (hereinafter UIMCC); William H. Chamberlin, Jr. M.D., Medical Director of UIMCC; Nikki Centomani is Director of Safety and Risk Management, UIMCC; Stuart Allen is Claims Manager, Office of Claims Management, University of Illinois at Chicago, located at the UIMCC campus; Barbara McColgin, Claims Analyst, Claims Management Office, University of Illinois at Chicago, located at the UIMCC campus; and Chris J. Mollet, Esq., Associate University Counsel whose office is located at the UIMCC campus. I understand that all of these

defendants were sent Waivers of Service of Summons at such addresses and returned the forms executed in this matter. The complaint in this lawsuit alleges wrongdoing by such personnel and such wrongdoing, to the best of my information and belief occurred within the jurisdictional boundaries of the United States District Court for the Northern District of Illinois, Eastern Division

7. The defendant Michael Trucco, Esq. is an attorney who practices I understand from his office in the City of Chicago, County of Cook, State of Illinois, which I understand is within the jurisdictional boundaries of the United States District Court for the Northern District of Illinois, Eastern Division. I understand he was sent a Waiver of Service of Summons at his Chicago office and it was returned executed in this matter. The complaint in this lawsuit alleges wrongdoing by him in connection with the lawsuit in the Circuit Court of Cook County, Illinois, County Department, Law Division, which I understand is within the jurisdictional boundaries of the United States District Court for the Northern District of Illinois, Eastern Division, styled as DAVID BEHZAD, as Special Administrator for the Estate of JOHN BEHZAD, deceased, Plaintiff, vs. HERAND ABCARIAN, M.D., Defendant, No. 06 L 006172.

8. The Defendants Patricia Kale, Director, University Office of Risk Management, University of Illinois; Thomas R. Bearrows, Esq., University Counsel; and, Christine Flaningam, Staff Secretary, University of Illinois Board of Trustees, do not to my knowledge reside within the jurisdictional boundaries of the United States Court for the Northern District of Illinois, Eastern Division; nevertheless, it is my belief that such defendants reside in the State of Illinois and the claims made in this lawsuit arise out of or are connected with the lawsuit brought against me in the Circuit Court of Cook County, Illinois styled as DAVID BEHZAD, as Special Administrator for the Estate of JOHN BEHZAD, deceased, Plaintiff, vs. HERAND

ABCARIAN, M.D., Defendant, No. 06 L 006172, the motivation of certain defendants in settling such lawsuit and the reporting of such settlement to the Illinois Department of Professional Regulation and the National Practitioner Data Bank and the establishment of policies relative to, the participation in and the ratification of such conduct by The Board of Trustees of the University of Illinois. The complaint in this lawsuit alleges wrongdoing by them in connection with the lawsuit in the Circuit Court of Cook County, Illinois, County Department, Law Division, which I understand is within the jurisdictional boundaries of the United States District Court for the Northern District of Illinois, Eastern Division, styled as DAVID BEHZAD, as Special Administrator for the Estate of JOHN BEHZAD, deceased, Plaintiff, vs. HERAND ABCARIAN, M.D., Defendant, No. 06 L 006172.

9. I make this affidavit for the sole purpose of establishing that venue for this lawsuit is proper in the United States District Court for the Northern District of Illinois, Eastern Division.

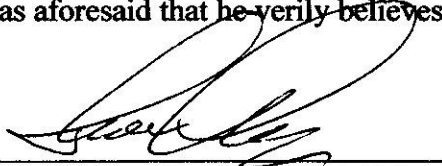
FURTHER AFFIANT SAYETH NOUGHT



Herand Abcarian, M.D., F.A.C.S.

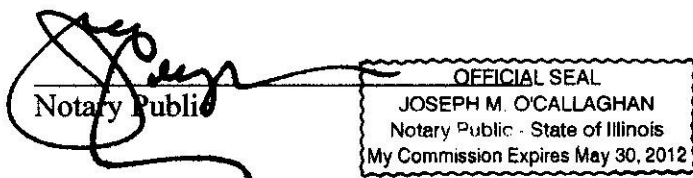
VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information or belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



Herand Abcarian, M.D., F.A.C.S.

Signed and sworn to before me
This 29th day of August, 2008



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